

JUANITO RAMOS, SALVADOR RAMOS, ESPERIDION RAMOS, LYDIA RAMOS AND AGAPITA VDA. DE RAMOS, PETITIONERS, VS. HON. BIENVENIDO A. EBARLE, JUDGE, COURT OF FIRST INSTANCE OF MISAMIS OCC...

G.R. No. L-49833. February 15, 1990

Ponente: REGALADO, J.

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REGALADO, J.:

Petitioners pray in this original action for the writs of certiorari and mandamus primarily for the annulment of the orders of respondent judge, dated October 11, 1978 and November 18, 1978, issued in Civil Case No. OZ 731 of the then Court of First Instance of Misamis Occidental.

Petitioners are the heirs of the deceased Manuel Ramos, namely, his widow, Agapita Vda. de Ramos, and their children, Juanito, Salvador, Esperidion and Lydia. The records reveal that on May 26, 1977, they filed a complaint docketed as Civil Case No. OZ 642 in the same trial court earlier referred to. This complaint was later amended, as a matter of right, before answer thereto was filed. In both their original and amended complaints, petitioners prayed that the "Deed of Absolute Sale of Real Properties" executed by Manuel Ramos on February 16, 1960 in favor of respondent spouses be declared null and void, but "only in connection with the alleged participation therein of plaintiff Agapita Manisan Vda. de Ramos," one of the petitioners herein. Additionally, petitioners prayed for the cancellation of Transfer Certificate of Title No. 300 of the Register of Deeds of Misamis Occidental issued by virtue of the aforementioned deed, and for them to be declared "to be the rightful owner (sic) of 23.0000 hectares, more or less, out of the 46.0000 hectares, as the plaintiffs does (sic) not question the legal effect of such transactions of their late father as the rightful owner of the one-half under consideration." [1]

On May 22, 1978, petitioners moved for the admission of a second amended complaint. This time, petitioners likewise sought the annulment of the same deed of sale but focused the allegations of said amended complaint on the alleged mistake and fraud that made the document defective. Petitioners alleged that although the contract was designated as a sale, the intention was actually to mortgage the properties. Petitioners claimed therein that they are in possession of the properties and have been in possession of the same since time immemorial. On the basis of those allegations, petitioners sought to recover the title to the entire parcel of land in question. [2]

In its order dated June 9, 1978, the motion to admit the second amended complaint was denied by the trial court. It pointed out that:

"x x x in the original and first amended complaint, plaintiffs were only claiming 23 hectares of land, this being the share of Agapita Manisan in the conjugal land containing a total area of 46 hectares which was sold by her husband, Manuel Ramos (deceased), to the defendants. Both complaints further alleged that they were not questioning the ownership of Manuel Ramos as to the half portion conveyed, hence, the sale was valid insofar as the 23 hectares was (sic) concerned. However, the 2nd amended complaint now changed these allegations claiming the whole parcel of 46 hectares alleging practically new matters therein." [3]

A motion for reconsideration of this order, filed on June 19, 1978, was denied by the trial court on June 1, 1978 holding that the second amended complaint would substantially alter the cause of action of the case.[4]

On July 24, 1978, petitioner instituted Civil Case No. OZ 731 copying and embodying the same allegations in the rejected second amended complaint in Civil Case No. OZ 642.[5] However, instead of being designated as an action for "annulment of instrument and/or legal redemption" like the aforesaid second amended complaint, the case was now denominated as one for "reconveyance and/or legal redemption."

Private respondents moved to dismiss the second case on three grounds, that is, (1) that there is another action pending between the same parties for the same cause; (2) that there was no cause of action; and (3) that the action was already barred by laches and/or prescription.[6] Despite an opposition thereto, the trial dismissed the complaint in Civil Case No. OZ 731 on October 11, 1978 on the ground of *litis pendentia*. The court ruled that:

"x x x any judgment that may be rendered in Civil Case No. 642, regardless of which party may be successful, would amount to *res adjudicata* in this case under consideration. From the allegations of both complaints, the cause of action of the plaintiffs is premised solely on the invalidity of the instrument of sale although they have availed of different remedies — one for reconveyance and the other for annulment. Perforce, these remedies emanate from a single cause of action which under our rules cannot be resorted to by splitting the cause of action to be the basis for filing a separate complaint. Whatever judgment may be rendered on the document in question would finally settle the issue of validity amounting to *res adjudicata* of the case at bar. What plaintiffs failed to get by the denial of their second amended complaint in Civil Case No. OZ 642, they are now pursuing this instant case to seek the same relief in the prior case."[7]

From the foregoing factual antecedents, the sole question to be resolved in the present recourse is whether or not the trial court was correct in dismissing Civil Case No. OZ 731 on the ground of *litis pendentia*.

Under the rules and jurisprudence, for *litis pendentia* to be invoked as a ground for the dismissal of an action, the concurrence of the following requisites is necessary: (a) Identity of parties or at least such as represent the same interest in both actions; (b) Identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) The identity in the two cases should be such that the judgment that may be rendered in one would, regardless of which party is successful, amount to *res judicata* in the other.[8]

Petitioners assert herein that there could be no *litis pendentia* because the two cases involve distinct halves of the forty-six (46) hectares of land. They claim that the dismissal of Civil Case No. OZ 723 on that ground is inconsistent with the lower court's refusal to admit the second amended complaint in Civil Case No. OZ 642. These arguments, as formulated, appear to be strained and inconclusive. Nevertheless, we rule in petitioners' favor as, properly considered, there is merit in their position.

The rights asserted in each of the cases involved are separate and distinct; there are two subjects of controversy presented for adjudication. Also, two causes of action are clearly involved. Civil Case No. OZ 642 is for annulment of an instrument and recovery of possession and ownership of the one-half (1/2) share of the widow in the conjugal partnership properties. The alienation and transfer thereof to private respondents without the knowledge and consent of said widow is the actionable wrong. This cause of action properly pertains to the widow, Agapita Manisa, who is the real aggrieved party and, therefore, the real party in interest. Thus, the participation of the other petitioners in the case in that particular regard is not even necessary and they should not have been impleaded therein.

On the other hand, the real parties in interest in the second action, Civil Case No. OZ 731, not only include the widow but all the heirs of Manuel Ramos. The case is anchored on the alleged fraudulent acts employed by private respondents in securing Transfer Certificate of Title No. 300 although the deed purporting to be a sale was

actually intended only as a mortgage. Necessarily, the real parties in interest and the cause of action are not the same. Furthermore, the subject matter affected by said cause of action is the entire deed and, consequently, the entire parcel of land and not merely a part or half thereof.

Concededly, some items or pieces of evidence may be admissible in both actions. It cannot be said, however, that exactly the same evidence will support the decisions in both. It is evident that the legally significant and controlling facts in each case are entirely different. In the first case, what is material and determinative, as alleged and to be proved, is the lack of consent of the widow in the document in question; in the other, it is the alleged mistake or fraud in the execution of the instrument and the obtention of title by respondents pursuant thereto.

It necessarily follows from the above disquisition that the third requisite for *litis pendentia* is also not present. There being different causes of action, the decision in one case will not constitute *res judicata* as to the other. Thus, a finding that there was no fraud in executing a deed of sale instead of a mortgage will not be *res judicata* as to the question of whether or not the widow consented to or participated in the transaction. Of course, a decision in one case may, to a certain extent, affect the other case as they involve the same parcel of land. This, however, is not the test to determine the identity or discreteness of the causes of action. And, whatever difficulties or inconvenience may be entailed if both causes of action are pursued on separate remedies, the proper solution is not the dismissal order of the trial court. The possible consolidation of said cases, as well as stipulations and appropriate modes of discovery, may well be considered by the court below to, subserve not only procedural expedience but, more important, the ends of justice.

ON THE FOREGOING CONSIDERATIONS, the writ of certiorari is hereby issued SETTING ASIDE the questioned orders, dated October 11, 1978 and November 18, 1978, issued in Civil Case No. OZ 731 by respondent judge.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Rollo, 78-79.

[2] *Ibid.*, 16-19.

[3] *Ibid.*, 20.

[4] *Ibid.*, 30.

[5] *Ibid.*, 7, 31-34.

[6] *Ibid.*, 40-44.

[7] *Ibid.*, 51.

[8] *Marapao vs. Mendoza, et al.*, 119 SCRA 97 (1982); *Lopez, et al. vs. Villaruel, et al.*, 164 SCRA 616 (1988).

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